

## SENATE BILL NO. 299

INTRODUCED BY TOOLE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING DEFINITIONS, COMPONENTS, AND PROCESSES REGARDING THE PRIVATIZATION OF STATE SERVICES AND PRIVATIZATION PLANS; EXTENDING AND IMPOSING DEADLINES REGARDING PRIVATIZATION PLANS AND REVIEW OF PRIVATIZATION PLANS; REQUIRING THE LEGISLATIVE AUDIT COMMITTEE TO MAKE FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS REGARDING PRIVATIZATION PLANS; REQUIRING THE GOVERNOR TO APPROVE OR DISAPPROVE PRIVATIZATION PLANS; AND AMENDING SECTIONS 2-8-301, 2-8-302, 2-8-303, AND 5-13-203, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 2-8-301, MCA, is amended to read:

**"2-8-301. Definitions.** As used in this part, the following definitions apply:

(1) "Agency" means an office, position, commission, committee, board, department, council, division, bureau, section, or any other entity or instrumentality of the executive, legislative, or judicial branch of state government.

(2) "Private sector" means any entity or individual not principally a part of or associated with a governmental unit that is associated with or involved in commercial activity.

(3) (A) "Privatize" means an agency contracting with the private sector to provide services that are currently or normally conducted directly by the employees of the agency if the contract displaces five or more current state employees state. ~~For the purposes of this subsection, an employee is displaced if the privatization proposal will result in his layoff, demotion, or involuntary transfer to a new location requiring a change in residence of the employee.~~

(B) THE TERM DOES NOT INCLUDE CONTRACTING WITH THE PRIVATE SECTOR TO PROVIDE SERVICES ON A TEMPORARY OR EMERGENCY BASIS.

(4) "Program" means a legislatively or administratively created function, project, or duty of an agency."

**Section 2.** Section 2-8-302, MCA, is amended to read:

**"2-8-302. Privatization plan -- hearing -- role of legislative audit committee -- action by governor.**

(1) Before an agency may privatize a program, it shall prepare a privatization plan as provided in 2-8-303.

(2) The privatization plan must be released to the public and ~~any affected employee organizations to~~ all unions that represent state employees and must be submitted to the legislative audit committee at least ~~90~~ 180 days prior to the proposed implementation date.

(3) At least ~~60~~ 90 days prior to the proposed implementation date, the legislative audit committee shall conduct a public hearing on the proposed privatization plan at which public comments and testimony must be received.

(4) At least ~~15~~ 45 days prior to the proposed implementation date, the legislative audit committee shall release to the public a summary of the results of the hearing, ~~including any recommendations of the committee relating to the proposed privatization plan~~ and the findings and conclusions of the legislative audit committee.

(5) (a) At least 30 days prior to the proposed implementation date, the legislative audit committee shall vote to recommend approval or disapproval of the privatization plan to the governor and transmit the recommendation in writing to the governor.

(b) The recommendation of the legislative audit committee is advisory only.

(6) At least 15 days prior to the proposed implementation date, the governor shall approve or disapprove the privatization plan, stating in writing the reasons for approval or disapproval."

**Section 3.** Section 2-8-303, MCA, is amended to read:

**"2-8-303. Privatization plan -- contents.** (1) An agency proposing to privatize a program shall prepare a privatization plan that includes the following:

(a) a description of the program to be privatized, including references to the legal authority under which the program was created;

(b) detailed budget information that includes a list of expenditures for the 2 most recent fiscal years and the sources of revenue for the program;

(c) a list of all personnel currently employed in the program and the estimated effect of the proposed privatization on ~~their~~ the employment status of each employee affected;

(d) a listing of the assets of the program and their proposed disposition if the plan is implemented;

(e) an estimate of the cost savings or any additional costs resulting from privatizing the program, compared to the costs of the existing, nonprivatized program. Additional costs must include the estimated cost

1 to the state of inspection, supervision, and monitoring of the proposed privatization and the costs incurred in the  
2 discontinuation of such a contract.

3 (f) the estimated current and future economic impacts of the implementation of the plan on other state  
4 programs, including public assistance programs, unemployment insurance programs, retirement programs, and  
5 agency personal services budgets used to pay out accrued vacation and sick leave benefits;

6 (g) the estimated increases or decreases in costs and quality of goods or services to the public if the  
7 plan is implemented;

8 (h) the estimated changes in individual wages and benefits resulting from the proposed privatization;

9 (i) the ways in which the proposed privatization will deliver the same or better services at a lower cost;

10 and

11 ~~(h)(i)~~ a narrative explanation and justification for the proposed privatization.

12 (2) To implement the privatization plan, an agency may transfer funds between budget categories."  
13

14 **Section 4.** Section 5-13-203, MCA, is amended to read:

15 **"5-13-203. Meetings -- compensation.** (1) The committee shall meet:

16 (a) as often as may be necessary during and between legislative sessions to advise and consult with  
17 the legislative auditor; and

18 (b) to review privatization plans and to make findings, conclusions, and recommendations as required  
19 under the provisions of 2-8-302.

20 (2) Committee members are entitled to receive compensation and expenses as provided in 5-2-302."  
21

- END -